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LETTER

TO

THE LORD ADVOCATE.

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ON THE

SCOTISH REFORM BILL.

Mr Hunt. — I will take leave to ask the learned Lord whether he does not think he has to-night made something of a radical speech ? *Mirror of Parliament*, 1831, p. 2392.

WILLIAM BLACKWOOD, EDINBURGH; AND
T. CADELL, STRAND, LONDON.

MDCCCXXXII.

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LETTER

TO

THE LORD ADVOCATE.

MY LORD,

IN the exercise of your high office, the duties of which consist in defending the Constitution and in bringing to punishment its aggressors, you have introduced into Parliament, for the third time, a Bill calculated to revolutionise Scotland, to overturn her political establishments, and to abolish her vested rights. To examine that Bill in its principles and its details becomes the duty of every friend of his country; but it may be proper, as a preliminary inquiry, to ascertain how far such a measure is necessary, and under what circumstances it has been proposed. For information on these points, I naturally turn to your Lordship; but as, in bringing forward the present Bill, you have declined entering upon either of them, and have referred to the speech which you delivered on moving the second reading of the former Bill, I have no alternative but to turn for that speech to the *Mirror of Parliament*, of the 23d of last September. In animadverting upon it, I trust that no expressions deficient in courtesy may fall from my pen, since nothing is farther from my intention than to say any thing

personally disrespectful of one whose amiable qualities are, as I understand, admitted by all his friends. Among that number I have not the honor to be. I know your Lordship only as in youth the enthusiastic disseminator of liberalism in politics and in religion; in manhood, as the acute critic and subtle pleader; in advancing years, as the first law officer of the Crown for Scotland, and the idol of the riotous mobs of Cupar, Edinburgh and Dundee.

Before entertaining the question of a change in our representative system, we ought distinctly to understand what that system actually is. And this is the more necessary, as no one who has observed the allusions of late made to it, both in and out of Parliament, can have failed to detect a degree of ignorance, and a tissue of misrepresentation, equally prejudicial to the cause of truth. To correct that ignorance, and to expose that misrepresentation will be very briefly attempted; and it is hoped, by avoiding technical details to afford an exposition intelligible to any reader.

The ancient Scottish Parliament consisted of Peers and Prelates, and of Representatives from the Counties and the Burghs. These last classes must be separately considered.

1. The members for Counties were chosen by landed proprietors holding their estates immediately from the Crown. The feudal system recognised the Sovereign as the owner of all his dominions, and the fountain of all honors; from him therefore every grant of land was originally derived. Such a grant conferred the distinction of nobility, and the condition or manner of tenure determined the rank of the holder. One of these conditions was the performance of suit and service in the courts of the King, from which none of his immediate vassals were exempt. Thus originated Parliament,—an assembly of the Barons met to aid the counsels, and do the behests of their royal master. As the number of Crown vassals increased, inconvenience arose from the “multitude of counsellors” on the one hand, and from

the hardship of attendance to the smaller Barons on the other. These were at length permitted to appear by a deputy or representative, who came to the court of Parliament commissioned by them.

Thus does the feudal origin of county representation account for the limitation of the franchise to landed property, and also for the condition of a direct tenure from the Crown. Those landowners who held their estates of a subject were excluded, not as a slight, but because, by the feudal constitutions, they were not entitled to do suit and service in the courts of the Sovereign, but only in those of the Baron whose sub-vassals they were. Between them and the Crown, their immediate superior was interposed; through him alone could they serve or approach the Royal Person; to him alone could they apply for maintenance of rights and redress of grievances. It is therefore obvious that their position deprived them of personal or political independence, and that these qualities were, in fact, limited to the class in whom our Constitution vested the franchise for counties.

The *principle* of that franchise being thus ascertained, it appears unnecessary fully to illustrate the *amount* of the qualification, since the details are more likely to confuse one unacquainted with their technicalities, than to elucidate the subject. It was fixed according to ancient valuations; but it may be assumed that the quantity of land required to give a vote varies, in present annual value, from £200 to £800, sterling; the probable average being from £300 to £400. When an estate held in freehold affords several such qualifications, the owner may, by interposing other persons between himself and the Crown, confer upon them, either for life or in perpetuity, the privilege of the elective franchise; and this privilege, when separate from the soil, may be bought or sold independent of the proprietor of the latter.

2. Such was the mode by which Parliamentary representation was provided for the owners of land. But there was another

class, who, though unconnected with property in the soil, possessed means which entitled them to a voice in the legislature. In the earlier ages of our history, when the fountains of credit were yet unopened, and the currency was a meagre stream almost stagnating in its contracted channels, capital was confined to those by whom the limited trade of the country was monopolised. These persons were of a class entirely distinct from the territorial proprietors, differing from them in habits as they did in birth. Yet they were often most useful in supplying them with various articles in barter for the produce of the soil, and not unfrequently in lending, upon usurious mortgage, the sums required by them for the expenses of the court or the camp. This class of persons, generally useful to the community, were especially so to a needy government; and it became doubly the policy of the Crown to protect and support them. By encouraging their settlement in towns, the Sovereign added to the security of their trade; and by conferring upon these towns privileges of importance, he acquired a title to levy from them contributions proportioned to their wealth, and to the wants of the executive. The site of these towns was often chosen with reference to the protection which an adjoining fort, or influential monastic establishment afforded in troublous times; in other cases, it was selected from the facilities it offered for trade.

Thus arose Royal Burghs. The privileges originally bestowed upon them were (besides grants of land) chiefly of a mercantile character,—such as permission to hold markets, monopolies of buying and selling, especially of foreign trade, and exemption from tolls or exactions. The contributions which they paid consisted of a fixed “mail” or rent, payable from each burgage tenement, and of certain customs levied on all commodities sold within burgh. It is unnecessary here to trace the modifications which these immunities and impositions have undergone: the class of persons to whom they applied is of more immediate

importance to our inquiry. These were in general the "co-burgesses," otherwise called the "community" of the town. The sole qualification originally was the possession *in heritage* of a tenement of land within burgh, with an obligation to erect upon it a house. Besides the domestic and foreign trade of the country, the exercise of the manual arts was in a great measure confined to such privileged towns, and hence almost every inhabitant practised some one of these. Out of this fact sprang the establishment of "crafts," or incorporated trades; and in many cases adoption into one or other of them came to be substituted for the more early qualification of burgage property. Thus the "community" came to consist of craftsmen, who by degrees monopolised the internal government of the burgh, and consequently its political influence. Hence originated the many anomalies in the "setts," or internal constitutions of this class of towns, which, lapsing into abuses, have long afforded a theme of reprobation to the theorist, and of virulence to the demagogue.

As an almost necessary consequence of the protection and immunities thus afforded by the Crown to a class of individuals peculiarly exposed to the oppression of feudal insolence, the whole trade and capital of the country became concentrated in the Royal Burghs. An interest was thus created of importance sufficient to demand admission into the legislature, in which its presence was soon found readily available to strengthen the Crown in its contests with an overbearing aristocracy. Consequently while the landed interest continued paramount in returning the members for counties, the commissioners for burghs were justly held to represent the moneyed and trading classes, by whom exclusively they were chosen.

Such was the representative Constitution of Scotland, which was preserved to us unaltered at the Union. Such however it is by no means generally in England understood to be; and ere we apply to it the only true test, that of practical efficiency,

let us pause to consider the causes of this misapprehension. Any one who reads over the expressions which are represented* to have fallen from your Lordship, and from other Scotchmen in the House of Commons during last session, would form a very different idea of our political state. He would find it stated that the members for Scotland "have almost always been found supporting the minister," and "swelling the ranks of his majorities;" indeed, that they "have been generally a nonentity in the House."

Again he would be told that "the grossest abuses of the English Constitution are Utopian perfections compared with the representation of Scotland,—a mode of representation which does not only contain some abuses, but is in itself one enormous and hideous abuse—a mass of unmixed and unmitigated evil."

In fine he would learn that "the system is monstrous, and never was productive any where of any thing but evil;" that the county members represent "a small and insignificant oligarchy of persons, not generally connected with the great landed interests of the country, the major part of whom have no interest or connection with the places in which they exercise the franchise;" that "the real proprietors are evidently in danger of being overwhelmed by swarms who have neither interest nor connection with them;" that it is "a franchise not depending upon property;" that "a few individuals exclude the whole of the intelligent and wealthy community of Scotland from possessing a share in the choice of the representatives of the Scotch nation in this House;" nay that "Scotland is absolutely without a representation!"

After reading this, no one could hesitate to regard with your Lordship the system as "utterly incurable, and not to be

* *Mirror of Parliament*, 1831, pp. 2370, 2371, 2373, 2374, 2376, 2382, 2386.

patched or mended, but utterly destroyed and abandoned ;” and would learn with heartfelt satisfaction that “ no shred or rag—no jot or tittle of the old abominations shall remain.” But my Lord, if upon inquiry it can be shewn that this torrent of virulence—that this climax of vituperation is drawn from statements utterly at variance with fact, and is founded upon inferences wholly repugnant to ascertained experience, then may the inquirer express with Mr Hunt a sceptical astonishment at the “ radicalism” of your Lordship’s speech. But his surprise may possibly diminish, when he has been reminded by the member for Preston of the events of the late election for Edinburgh !

Palpably unfounded as are the epithets I have quoted, it may be necessary to give to them a more specific refutation, coming, as most of them do, from so high an authority as that of your Lordship.

The first accusation against the system is easily disposed of : to say of the Scottish representatives that they are usually found in ministerial majorities is to state what, as a general proposition, must always be equally true of the members for either of the sister kingdoms. Without a majority in the House of Commons to support their measures, no government can long hold office ; and the honourable position which those libelled gentlemen now occupy, in the van of the strongest and most constitutional opposition which that House has ever contained, is only an exception to the rule, though one of which their country has much cause to be proud.

The charge of gross corruption, so seriously alleged by the late Recorder of Bombay, will move a smile of pity, rather than a burst of indignation. Ignorance of his native country and her institutions may be expected from one, whose long absence seems to have banished from his memory whatever in youth he may have known of either. It is no idle boast, that the county representation of Scotland is the purest which fallible man has

yet realised. In no one instance has an election been set aside on the ground of corruption; in none has even the breath of slander dimmed the integrity of a county voter.

And now my Lord, to “the head and front of our offending” —to that accusation which, after being thundered forth by every outrageous mob orator, and repeated *ad nauseam* by every contemptible cobbler of constitutions, has awakened “one echo more” in St Stephens from your Lordship’s “winged words.” You have said, my Lord—— but I will not again quote words which no Scotchman can read with common patience. You state that the county electors do not represent the landed interest of the country. And how, pray, is this charge borne out? Why, by reference to a document said, in the *Mirror of Parliament*, p. 2370, to be upon the table of the House of Commons. From that document your Lordship undertakes fairly to establish the fact by an impartial, an alphabetical examination of the Scottish counties, with reference to their actual constituency. In pursuing this *alphabetical* examination, however, your Lordship finds it convenient to cite only five out of sixteen counties which precede Inverness. By a *remarkable*, though doubtless *accidental* coincidence, you have stumbled upon those very counties of all others the best suited to illustrate your argument, and consequently the least adapted to afford it a contradiction. Yet I am content to abide by this “inadvertent” but happy selection, upon the understanding that, if I find the authority upon which your Lordship founds to be inaccurate in these instances, I am entitled utterly to discredit every statement resting upon that or any similar document. A tabular view of these five counties will exhibit the actual number of real proprietors then on their rolls, and the number stated by your Lordship, in a report of your speech which has gone forth apparently from authority, and which remains uncontradicted.

	Number of voters.	Voters stated to be landholders.	Voters actually landholders.
Argyle,	113	31	67
Bute,	21	1	2
Caithness,	42	6	18
Cromarty,	19	6	4
Dunbarton,	71	19	27
		<hr/> 63	<hr/> 118

Now my Lord, I do not by any means impute to your Lordship the misrepresentations which I have here exposed; but I do complain that you should rashly have constructed upon such authority a Bill, by which it is proposed, at one fell sweep, to level in the dust the whole political fabric upon which the institutions of our country have for centuries been founded. I complain in behalf of that country, that her Lord Advocate should have adopted without question a document, of which any one, possessing the most moderate local information, would at a glance have discovered the falsehood. I complain that he should have allowed to pass undetected and unpunished, so audacious an attempt to mislead the Legislature of Great Britain on a topic of vital importance. And most of all I complain that he should have lent the high authority of his name to libel his country, by adducing without explanation as a fair example of the counties of Scotland, one which he well knew was without a parallel: that, in condescending to become the caricaturist of Bute with its one elector, he drew a veil over the circumstances which rendered it an exception at the time as anomalous, as is now that of the more dependant but more favored county of Sutherland.

But my Lord, I have other fallacies to point out besides those of numbers. Is your Lordship serious in asserting that a majority of the actual constituency are persons unconnected

with the landed interest of the country, or with the counties in which they vote? It has been shewn that, even in the most extreme cases, the proportion of landed electors is about twice as great as you had erroneously supposed: let us now inquire of what individuals the remaining constituency is composed. I have already admitted that the franchise may be held separate from the land over which it is created; the voter being in that case the free tenant of the Crown, while the proprietor of the soil is his sub-vassal. This usually occurs under either of the following circumstances:—

First, Where the owner in freehold of a considerable estate has alienated part of it, to be held by the acquirer as his sub-vassal. The value of the right thus conveyed is obviously less than it would have been, had the new proprietor become a tenant-in-chief of the Crown; and the price paid for it, at the first and all subsequent sales, was smaller in proportion. The right remaining in the original seller is termed the *superiority*, and as affording a franchise, bears a value equal to the diminution in that of the land sold consequent upon its retention. Now it cannot be denied, that were all freeholders thus to dispose of their whole lands, retaining the superiorities, or were they to sell these superiorities to persons in every instance unconnected with their counties, your Lordship would be correct in point of fact, and the inference against the system would be clear. But when it is apparent that the high price of superiorities generally proves an irresistible inducement to one disposing of his whole estate to alienate these also; and when it is notorious that the same cause, with very rare exceptions, prevents these being purchased by persons not intimately connected by property or family with the politics of the county; then my Lord, is it obvious that your statement and your deduction are equally fallacious. That they are so, I refer with confidence to any one practically acquainted with the freeholders' rolls of Scotland; that the reverse is universally

believed in England will not surprise any one who has followed me through your Lordship's assertions.

The *second* case is of more usual occurrence ; and, notwithstanding the abuse which it is the delight of theoretical reformers to heap upon it, constitutes one of the most valuable features of our political system, in as much as it secures to property a proportionate influence. The case may thus be rendered intelligible :—A possesses a freehold estate affording a franchise ; B has a freehold estate, of which the valued rent is four times as great, and the real income is larger in the same ratio. But as B in his own person can exercise only one vote, he may adopt the following plan, in order to render his influence in returning the member equal to his stake in the county. He conveys to three individuals for their lives the surplus superiority of his estate, whereby they each acquire a vote, while he holds three-fourths of his estate as their sub-vassal, the remainder being still freehold in his person, and affording his own franchise. And now my Lord, who are the persons selected to hold these votes ? You have told us from your place in Parliament, that they are “ swarms who have neither interest nor connection with the real proprietors :” the rolls of freeholders demonstrate that they are the nearest relations, the intimate friends, or the confidential agents of the great landholder over whose estate they hold their qualifications. Through them his large property is represented ; and, being chosen as entertaining the same political views with himself, the independence of their suffrages cannot admit of a moment's doubt. They accepted their votes in order to strengthen the influence of their friend, and by doing so, to support the measures of their party in the state ; should these objects ever become irreconcilable, they forthwith resign their qualifications.

But let us try the plan by its effects. The consequence of the state of matters imagined by your Lordship would be the

return of a representative ignorant of the business, and alien to the interests of his county; the actual working of the system sends to Parliament a resident proprietor, or the very near relation of such. Thus of the thirty members now sitting for Scottish counties, twenty are landed proprietors in their respective counties; four are eldest sons of such proprietors; and five are sons or brothers of resident Peers. One county alone might be adduced with some reason to bear out your hypothesis. Though never referred to while you inveighed against our close system, and though jealously exempted from such forced nuptials as your Lordship threatened to inflict upon counties of unquestioned independence, Sutherland does form an exception in your favour; and freely do I offer you the benefit of it. For the honor of my country and her Peerage, I rejoice to think it is but an exception!

Thus my Lord, have I endeavored to explain the actual composition of our county constituency, as distinguished from the strange delusions concerning it, which appear to possess your mind. And having given a popular view of the representative system of Scotland, let me trespass a little longer by applying to it the only true test,—that of experience. What has this Constitution done for Scotland? By the baneful influence of that “monstrous” system which your Lordship’s ingenuity has feigned for her, has our country pined under a paralysis of her energies, and dragged out a degraded existence through ages of protracted decay? Or has she enjoyed institutions which have long been the envy, and more lately the model of our proud brethren of England, and by means of which each succeeding generation of her sons is advancing in wealth and comfort, with a rapidity unequalled in the annals of the world?

You, my Lord, need not be told of the many important respects in which the laws of Scotland excel those of our sister country, and this is no place to enter upon so wide a field.

But it may be allowed me merely to point to the teind laws, that admirable adjustment of the rights of the Church to the interests of the community,—to the poor laws, which bind the rich man and the pauper by the sympathies of benevolence and charity,—to the bankrupt laws, which unite the most efficient security for the creditor with the utmost leniency towards the debtor,—to the law of succession, which secures the order of nature from the weakness or caprice of man,—to the law of lease, by which mutual confidence between landlord and tenant is established,—to the criminal laws, by which justice is so beautifully tempered with mercy,—to the uniform organization of our judicatories, about to be copied in England,—to the perfect machinery of our public records, which is generally envied there.

These are some of the fruits of Scotch legislation as preserved to us fresh from the tree ; but there are other matters of general polity at which I may glance with the same rapidity. The unparalleled progress of national and individual wealth cannot admit of question. The revenue of Scotland previous to the Union was £110,694 sterling, and its advancement then to £160,000 brought her to the verge of ruin. In 1813 it was £4,843,229, 12s. 11d. being an increase of above forty-four fold in one hundred and six years. Could a return now be obtained the result would be still more astonishing. A general analysis of her statistics might afford not less favorable proofs of population increased — cultivation extended — manufactures established — commerce created — flourishing towns built — rivers rendered navigable — canals cut — roads formed — the country studded with the mansions of resident gentry — the wretched hovels of the laboring class replaced by cottages from which cleanliness and comfort have banished filth and squalor. I need not institute a comparison between the situation of this class in England and with us ; the evidence of the daily press requires no comment : but it must not be forgotten,

that while in Scotland the laborer is much better off, the farmer who employs him prospers, notwithstanding the much higher rent which he in general pays to his landlord.

Still less my Lord is it necessary for me to say that knowledge has advanced in equal ratio. In science and in history we have in former times led the van; and now there is not a branch of literature or of art, in which we admit our inferiority. But while the fountain of knowledge flows in a not less pure and ample stream through the gifted men of our country, its waters are spread more widely among the people, in rills which fertilise the intellectual soil, and often nourish into vigorous growth those stray seeds of genius, which in less favored lands would have withered prematurely. The parochial schools of Scotland have carried to her most distant districts, to her meanest cottages, the desire and the opportunity of education, and have laid the foundation of that intelligence which it is our pride to regard as our national distinction.

To enlarge upon such topics were an easy and a grateful task; but my Lord, I am no boaster; and enough has been said to satisfy any one, that Scotland is prosperous—that her laws and institutions are beneficial. The deduction which naturally arises is favorable to the system of government, by which these laws and institutions have been fostered. But your Lordship would force upon us a very different conclusion,—that she has prospered *in spite* of her representative system. My Lord, in future times, when the mania for theory and the spirit of party shall scatter blindness less widely abroad, history will scarcely obtain credit, when she puts such an argument into the mouth of a Lord Advocate. Tell us my Lord, if you will, that the sandy plains of Egypt are annually clothed with a verdure whose luxuriance is unknown in other lands, *in spite* of the overflowing of the Nile,—that the broad waters of that inundation are charged only with universal destruction, *in spite* of which the soil renews its fertility. Speak in paradoxes as

you please on subjects interesting to us only as speculations of science; but, by the welfare of that country to which you owe the affection of a son, and of whose institutions you are the official guardian, I adjure you to forbear such trifling with her interests. These vapid inanities may befit the atmosphere of superannuated coteries, but are insulting to the British senate. In the former, they are harmless fooleries; in the latter, they compromise equally the principles of the speaker, and the dignity of his audience.

You carry the inference farther, and state that but for those defects and absurdities upon which you so gloatingly dwell, our happiness and prosperity would have been tenfold. I have no wish to follow your Lordship through such hypothetical reasoning, or to search for my country in that Utopian region, to which your visionary ameliorations would transport her. I have besides learned enough of your premises, to withhold my ready faith from your inferences. I am free to confess myself content, and grateful to the Almighty Disposer of human destinies for the unmerited favors she enjoys; and I prefer devoting my wishes and my feeble endeavors to retaining these, and to deserving them better, rather than to satisfying an insane craving after theoretical improvement.

Yet my Lord, you do hint at the opposite inference as a possible alternative; but you clog it with the startling conclusion, that, if the prosperity of Scotland have at all resulted from her government, then "a system of popular representation can be of no possible avail to a nation." Did I consider this so triumphant a *reductio ad absurdum* as you imagine, I might claim my right to object to the fairness of such an argument; but I do not decline to join issue with your Lordship upon it. If by POPULAR REPRESENTATION be meant a uniform franchise arbitrarily adopted without the shadow of a reason—equally removed from the principle of property on the one hand, and from that of universal right on the other—so adjusted as to

enable the lowest class of the constituency to outvote all the others—and establishing, as the standard of wealth and intelligence, the payment of three shillings and tenpence of weekly house rent, while it shuts out of the pale of the Constitution those whose rent is three shillings and ninepence,—then my Lord, I contend that popular representation, instead of benefiting a nation, must inflict upon it evils far more lamentable, far more speedily ruinous, than any that Pandora's fatal box ever produced. You my Lord, have acknowledged “a transient pang of shame and concern,” for your country. Your blush may well mantle, not for the bane, but for the antidote,—not for her ancient laws, but for her modern lawgivers. By the blessing of God, and by the firmness of the Barons of England, Scotland has as yet NO SUCH POPULAR REPRESENTATION; but we have already seen that she does possess a representation simple in its principles, and hitherto incomparably beneficial in its results.

Why then are her people condemned to a Reform of the most sweeping and ruinous character? Why is her political constitution to be destroyed by fatally violent poisons, prescribed by ignorant and reckless empirics? A ready answer is found in the ever-repeated assertion, that Scotland of all parts of the empire most demands Parliamentary Reform—that the cry for it has long been loud, and each day becomes more urgent, until the necessity is now conceded by every male inhabitant of that country. But neither your Lordship nor your friends have been able to verify that assertion, by any distinct facts prior to the general election of 1830. The previous petitions to Parliament from Scotland have in vain been ransacked for evidence favourable to your views, unless indeed recourse be had to a few, which went up in the seditious years 1819 and 1820 from the rabble of radicals, among whom Reform meant no definite improvement of the representation, but a visionary panacea for the depression consequent upon the close

of a protracted war. Compelled to admit this, you seek to explain it away by charging upon the whole nation "apathy with respect to political oppression;" and you hail as one of the chief advantages promised by your revolutionary Bill, that it will awaken the people to a concern for their liberties. You illustrate the argument by an appeal to history; and you feelingly lament that your country had imbibed so little of "the inspiring spirit of the times," as to take but a miserable share "in that great outbreak and overflow of English liberty in the seventeenth century, which swept away the throne of her legitimate kings, and deluged the land with a portentous and alarming flood." In such regrets I cannot sympathise with the Lord Advocate for Scotland; still less can I admire the glowing colors which he has profusely scattered over his sketch of a bloody civil war, and the murder of a legitimate Monarch. But I can meet your accusation of political apathy, by referring to the conduct of my countrymen for the last dozen of years, during which they have come eagerly forward, to express an opinion on all the questions of general importance which have been agitated. The proceedings against Queen Caroline—the free trade system—the changes in the corn laws—the abolition of test and corporation restrictions—and Catholic emancipation,—are instances in point. So also in matters more peculiarly affecting Scotland, they have shewn the most prompt and lively interest. Look to the successful stand they made in defence of their small note currency; to the many representations they have sent up against certain parts of the excise statutes—of the entail laws—and of the constitution of heritable conveyances. The tables of Parliament have been loaded with petitions on all of these subjects, while the state of the Scottish representation failed to elicit a single sheet of parchment.

Having dwelt thus long—too long it is feared—upon your Lordship's argument in favour of Parliamentary Reform, I

must hasten to consider the measure which you have proposed. And here I would gladly avail myself of those views which have guided you in adopting the principle, and adjusting the details of the new Constitution; but unfortunately this is not in my power. The only principle you have avowed is the abolition of every shred and rag, jot and tittle of the present system. Indeed your eloquent declamation is wholly of a destructive, never of a constructive character. And while history and assertion, and a most fervid imagination are brought to bear against existing institutions, your new fabric is left to support itself without the aid either of argument or of fancy. No, my Lord, it is not to these you trust for success, which rests on a more secure basis,—that of a staunch majority of the House of Commons. Since therefore you have not a word to say in defence of the Bill, we must examine it with reference to its own merits.

Assuming then upon your own shewing, that the Reform Bill is a measure of radical change, not to be weighed with reference to what you term “the old abominations,” we have to consider in the first place, the number and distribution of the representatives whom Scotland is to possess under the new Constitution. Upon the former of these points I shall not add one word to the many facts and arguments, which prove that the actual circumstances of Scotland demand an increase of above twenty members, in order to put her upon an equal footing with the rest of the United Kingdom. Yet in offering her five additional members, (since altered to eight,) you say that “justice has been done to her.” In regard to the allotment of these new representatives, I only remark that they are all given to large towns, from whose democratic constituency the landed interest is entirely excluded.

Next as to the proposed franchise. Here a distinction is still maintained between counties and towns; but the principle by which I have shewn that *land* has ever been represented

separately from house property is utterly abandoned. That the latter will have a preponderating influence over the former I have never heard questioned: that the interests of the two are generally opposed is matter of notoriety.

The qualifications in virtue of which votes have hitherto been held in counties are swept away, reserving only the life interest of their possessors. It were vain to argue the injustice of a provision which annihilates rights of great value held under the same sanction of law as any other description of property: it is self-evident, and has been admitted by the framers of the English Bill, when they reserved in perpetuity the rights of freemen. But the iniquity of such a step is aggravated by the consideration, that there were here the means of providing equitable compensation to the sufferers, in a manner to which I shall afterwards have occasion to beg your Lordship's attention. The new franchise consists first, in the *property** of lands, houses, feu-duties or other heritable subjects, (except debts heritably secured,) to the free annual value of £10 sterling. Second, In the *occupancy* of property under a written lease —

For sixty years, affording a clear yearly value of	£10
For twenty years, affording a clear yearly value of	50
For five years, paying a yearly rent of	50
For any period, and of any value, held without rent, on payment of a grassum or fine of	300

The objections that occur to this crude plan, which the counties of Scotland are to receive in place of their ancient election law, are numerous and cogent. But they have already been so often and so ably exposed, that I need not now occupy

* In order to exhibit a perfect contempt for all known usages, a clause has been introduced, dispensing with the voter's *infestment* in his qualification, the only test of actual possession recognised by the law of Scotland.

more than a very brief space in merely alluding to some of them.

By dispensing with the condition of tenure-in-chief from the Crown, the great means and inducement are removed, which have kept the progress of landed property in Scotland so much more clear and efficient than that of any other country, and the whole system of our feudal rights will thereby be endangered, without the substitution of any other machinery to supply its place.

By abandoning the old valuation of land, the amount of the qualification is left on a very loose footing, liable to constant fluctuation and fraud.

By adopting so reduced a scale of franchise, the voters of the lowest class will obtain a preponderance, to which neither their intelligence, their stake in the country, nor their interest in the soil in any respect entitle them.

By admitting house property, a class still more liable to each of these objections will be introduced upon an equal footing with the landholders, whom their numbers will enable them to outvote on all questions, in which their immediate interests are opposed to an order, upon whose prosperity the welfare of the state mainly depends. County members will be returned by tradesmen and manufacturers, and land will cease to be represented.

By conferring the franchise upon tenants, the present excellent understanding maintained between these persons and their landlords will be endangered; political heart-burnings will be engendered among men who have as yet been happily exempt from them; and a description of influence will be created, fatal to the independence of the tenantry of Scotland. So much was this admitted by your Lordship, that in at first proposing your plan of Reform, you defended this provision, as a check necessary to meet the overwhelming number of house voters. Fit argument for the organ of a government by whom principles

are ever abandoned for expedients! But the expedient if tried will be found inadequate to the object, while the evils resulting from it will prove irremediable. The question is not as to the capacity of tenants to hold votes, for many of them are as fully adapted, as others are unfit to enjoy such a privilege. A regard for their own welfare should prompt them to reject the fatal gift, the apple of discord thus insidiously thrown among them.

By abolishing paper votes, you boast of having eradicated a fictitious constituency. But my Lord, with the same breath you call into being an infinite variety of the same species of voters. I need not point out the many ways in which, by splitting property, by granting feus, by taking grassums, by liferent and other leases, a system of nominal votes—of elusory payments—of legalized corruption—and of inevitable perjury will be reared under this odious Bill.

We have now to consider the franchise of towns. It consists in “the occupancy, either as proprietor, tenant or liferenter of any house, warehouse, counting-house or shop,” of the yearly value of £10 sterling. No distinct test of this yearly value is pointed out by the Bill, though by requiring the payment of all assessed taxes, it would seem to establish the rating for house duties as the test. A fairer evidence perhaps could not have been adopted for inhabited houses; but it is totally inapplicable to the other tenements enumerated, and is inconsistent with two subsequent clauses. By these the property or occupancy by the same individual of any land within the town is allowed to supply a deficiency of value in his house or shop, and a subject held by several persons, *pro indiviso*, is permitted to afford as many votes as there are separate interests of the yearly amount of £10. It is obvious that the tax books can afford no evidence to prove either of these descriptions of qualification. May I be allowed farther to doubt whether the former part of section 12 be expressed in the language usually spoken on this side

of the Irish Channel? But although so clumsily drawn, this clause is of most material importance, since it will admit the very same three-and-tenpenny a-week tenants, whom Government led us to suppose were to be excluded by the new Bill. Even the doubtful degree of respectability implied by a constant residence in the same ten pound house for at least a year is dispensed with, and those roving and disreputable characters, who have during fifty-two successive weeks occupied as many three-and-tenpenny dwellings, are received on a par with the most substantial citizens. Nay the three-and-tenpenny a-week franchise of the last Bill is in fact here frittered away to a six-pence-halfpenny a-day qualification; for it appears to be sufficient that the voter be the occupant of such a tenement at the moment when he appears at the poll booth.

This franchise for towns appears objectionable,—

Because, while it abolishes the whole machinery of corporations as regards the election of representatives to Parliament, it leaves these, with all their defects and abuses, to paralyse the internal government of the community. It substitutes the specious amelioration of Parliamentary Reform for the practical boon of Burgh Reform :

Because it extends to other towns high privileges which our Constitution has limited to Royal burghs,—an anomaly which might have been avoided by giving charters from the Crown to the enfranchised towns :

Because it invades vested rights solemnly secured by statutes and charters, and disregards corporation privileges which, under judicious modifications, might have supplied a constituency sufficiently comprehensive, usefully varied, identified with the prosperity of the community, and analogous to established principles :

Because it provides for towns a franchise much lower than for counties, while the balance of intelligence and respectability is greatly in favor of the latter. At the same time, the

uniformity of the scale for all towns will introduce into the constituency of the larger a class much below the ten pound householders of small burghs.

Such my Lord, are the leading points of the new Constitution you offer to Scotland. The cumbrous machinery by which you propose it to work, and the schedules appended to it are matters of detail into which I shall not enter, although much tempted to expose the blunders of the former, and the inequalities of the latter. The general result of such a measure may be stated in two sentences. The members for Scotland will be the delegates of ten pound householders,—a class of operatives destitute of property, deficient in intelligence, democratic in principle, and adverse to the landed interest. The constituency, from being the purest, will become the most corrupt; the fortunes of Scottish gentlemen will be found quite inadequate to the expense of the contests; and the elections will become scenes of venality, debauchery and mob-violence, from which our country has hitherto been happily exempt. These my Lord, are the benefits for which future generations of your countrymen will acknowledge themselves your debtors; the page of history will not fail to discharge the claim.

Ought nothing then to be done?

My Lord, we have been often told from those benches in the House of Commons on which you sit, that, in the lapse of ages, the condition of the country has changed; that its population has increased; that its wealth has augmented; and that all classes of the community have advanced in intelligence. From this change is argued the necessity of Reform in the representation; of such a measure as, by enlarging the basis of the Constitution, shall give new strength and security to the beautiful fabric which surmounts it. Assuming then the policy of such an experiment, (for experiment it must at best be,) I shall endeavour to ascertain the principles upon which this extension ought to proceed, as being most consonant to

experience, and consequently most reconcilable with established institutions and vested rights.

In accordance with the principles which we have seen uniformly preserved in the representation of our counties, landed property alone ought to confer a right to vote in them. Of the landed constituency no very considerable extension could be afforded, so long as the condition of free tenure from the Crown is maintained on its present footing. But by suddenly and violently abolishing that ingredient, which from the earliest ages has been intrinsic in the qualification, and is in fact its chief element, an invasion of the most vital principle of the Constitution would be sanctioned. The law and practice of the whole landed rights of Scotland would be sacrificed, while infinite and endless litigation would follow. But no such destructive measure seems required, in order to admit to political rights those landed proprietors who, as holding of a subject, are now excluded. An adjustment might easily be made, after examples (such as rights to teinds and thirlage) already well known in our law, by which each sub-vassal might go to the Crown for a charter, upon purchasing from the tenant-in-chief his interest in the superiority of the lands, according to a rate to be fixed by the Legislature, or by a jury. Thus would be abolished the "parchment votes," that great source of complaint against the system; while the essential quality of our ancient franchise would be preserved, and a means of equitable compensation would be afforded to those superiors, whose political privileges should be so transferred to strangers. The valued rent ought to be continued as the test of the qualification, as it is a definite scale, which may be applied to every case by a long approved machinery of unpaid judges, and which is found most convenient for all local rates. Its amount might be fixed at the point which mature consideration should ascertain to be most expedient.

I say nothing as to the number of our representatives, since that must depend upon considerations not limited to this portion

of the Empire. An addition to it, however small, would be received as a boon ; but it is only in the event of remodeling the House of Commons, that we could claim a share proportioned to our present circumstances. If however it be required to give separate members to several of the largest towns, these ought to be erected into Royal burghs, and a new arrangement of the smaller burghs made ; thus diminishing the influence of these in behalf of a more flourishing neighbour, without exposing them to disfranchisement.

That a very wide departure from the spirit of the Constitution of Royal burghs has taken place, and that much which is objectionable has crept into their practice cannot be denied. But the decay of many of these communities ought to be attributed to such deviations, rather than to the original system. To restore that system in its purity ought therefore, my Lord, to be your object, rather than to sweep it entirely away. While exposing the evils which are experienced from it, your Lordship should remember that it is founded upon rights as sacred as those by which your own property is enjoyed. You ought therefore to be well assured that no remedy exists, ere you consign it to utter destruction. In an age when the march of intellect threatens to outstrip even the meteor-like career of the locomotive engine, it may savor of antiquated prejudice to uphold corporations as worthy of support. But if they can be rendered as instrumental in promoting the prosperity of towns, as they have sometimes retarded it ; if, from a source of mischief, they can be converted into the means of benefit, it might be an undertaking not unworthy of your Lordship's genius, to *reform* and foster, rather than to abolish and extirpate them. The corporations of burghs were originally intended to include every "citizen of credit and renown;" and it would not be very difficult so to remodel them as to redeem that intention. Were this done, a constituency of mixed and varied aspect would be obtained, including within its circle every

respectable resident, each of whom would find in his political privilege a link that bound him to the community, and that identified his interests with the general prosperity.

Your Lordship may perhaps see neither beauty nor utility in such a band of burghers as my sketch would embody, clad in the musty but substantial fashions worn by the predecessors of our "merchant kings;" and, "*cupidus rerum novarum*," you may wish to supplant them by a migratory race, to whose habits, maintenance, means and employments you are utterly indifferent, provided you find them, at the return of each election, tenanting a three-and-tenpenny a-week hovel. My Lord, is it such hovels you would select for the basement of our extended Constitution? Is it of such tenants you would organise the majority of its garrison?

Non tali auxilio! nec defensoribus istis!

These admissions may obtain for me the taunting epithet of a "bit and bit reformer," which is now applied to all who stop short of your Lordship's revolutionary schemes, and they may be received without thanks as wrung by necessity. But it is not so. Such concessions as I have pointed at might long ago have been granted, had their case rested entirely on their own safety or possible expediency. But danger lay in opening up a question in which every step expands a wider field of difficulties; in removing landmarks from the spot upon which time has consecrated them, to define a boundary which, beset by a thousand conflicting claims, never can acquire permanence or respect. If however (as I greatly fear) these limits have now been displaced—if the barriers of our political system have been rudely broken down, by the insidious arts, and the riotous tools of a factious and profligate administration, the integrity of our Constitution is gone, and along with it the strength of this argument. The conservative party need no longer struggle for what has been wrested from them; their efforts must now

be to sacrifice as little as possible of whatever has been proved beneficial.

It is this consideration that has led me beyond my original intention, which was to address to the public, through your Lordship, a caution against the fallacies which your descriptions of the state and representation of Scotland are calculated to encourage, and to direct their attention to the patchwork which you propose to substitute for our tried institutions. But while I have thus faintly traced the outline of changes, that might remove those excrescences which many good men wish to eradicate, without endangering the vigor of that stately tree which, in sunshine and in storm, has long shadowed and sheltered this beloved land, I leave to abler hands the details by which these alterations might be rendered beneficial. For such a task I want alike ambition and powers. Indeed I have perhaps already said more than enough; and I gladly conclude, by adjuring your Lordship carefully to weigh the deliberate and anxious convictions of one to whom, upon questions of polity, even *les esprits forts* of the present age may well bow. "Sic mihi semper fuit persuasissimum, patriam, juxta veterum sententiam, alterum Deum, et leges patrias alteros Deos esse, quas qui violant, quantumvis se quæsito pietatis colore defendant, sacrilegii ac parricidii poena teneri. Hæc jura, has leges, quibus hoc regnum fundatum in tantam magnitudinem ac potentiam se extulit, si qui sint, atque utinam non essent, qui cuniculis ac machinis pugnatum eant, quando aperta vi non possunt, ne indigni paterno nomine simus quique boni cives habeamur, si gliscenti malo nos fortiter nos opposuimus."

I have the honor to be,

My Lord,

Your most obedient servant,

A CONSERVATIVE.

January 25, 1832

1878

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